

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

THOMAS E. PEREZ, *Secretary of Labor,*  
*United States Department of Labor,*

Plaintiff,

v.

Civ. No. 13-75 MV/GBW

ZL RESTAURANT CORPORATION,  
D/B/A FAMOUS WOK, and, LIXIN YANG,

Defendants.

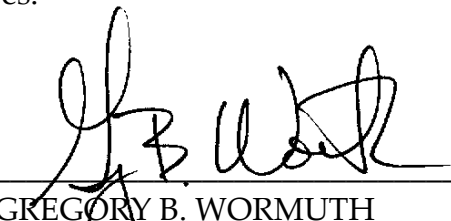
**PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court on Plaintiff Thomas E. Perez's Motion and Supporting Brief for Award of Attorney's Fees. *Doc. 37*. Plaintiff is clearly the prevailing party as his Motion for Summary Judgment was granted in its entirety. *Doc. 25*. In the Memorandum Opinion and Order Granting Plaintiff's Motion for Summary Judgment, the Court noted that, "because the Act authorizes the payment of attorney's fees and costs to prevailing Plaintiffs, the Court will entertain a motion pursuant to local rule 54.5 specifying the amount sought." *Doc. 35* (citations omitted). Plaintiff obliged by filing the instant motion. The Court entered an order referring the matter to the undersigned for a recommended disposition on the matter. *Doc. 38*. Having reviewed the Motion, I find Plaintiff's request to be reasonable.

To begin, Plaintiff's Motion limits the amount of attorney's fees sought strictly to work done in connection with Plaintiff's summary judgment motion, though Plaintiff's records reflect that much more work was done on the case. *Doc. 37, Ex. 1* at 4-5. Furthermore, the attorney who argued the Motion for Summary Judgment, Jennifer J. Johnson, spent 119 hours researching and arguing the summary judgment motion. *Doc. 37* at 3. I find that amount of time spent and the manner in which it was spent to be reasonable. *Id.* at 3-4. Additionally, in light of Ms. Johnson's experience as a licensed attorney since 2006 and a trial attorney in the Office of the Solicitor since 2009, *id.* at 5, I find the proposed hourly rate of \$125 to be reasonable.

Finally, Defendants' failure to respond to the motion constitutes consent to grant it. *See D.N.M.LR-Civ. 7.1(b)*.

For the foregoing reasons, I recommend that the Court GRANT the Motion and award Plaintiff \$14,875.00 in attorney's fees.

  
\_\_\_\_\_  
GREGORY B. WORMUTH  
UNITED STATES MAGISTRATE JUDGE

**THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**